

# United States District Court

EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

RANDALL LEE HOTT (20)

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Case No. 4:03cr84  
(Judge Schell)

## **REPORT AND RECOMMENDATION** **OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Judge referred the matter to this Court for a report and recommendation, the Court conducted a hearing on September 13, 2010, to determine whether Defendant violated his supervised release. Defendant was represented by Denise Benson. The Government was represented by Ernest Gonzalez.

On April 30, 2004, Defendant was sentenced by the Honorable Richard A. Schell to forty (40) months' custody followed by four (4) years of supervised release for the offense of Conspiracy to Manufacture, Distribute, or Possess with Intent to Manufacture, Distribute or Dispense Methamphetamine. On August 30, 2006, Defendant completed his period of imprisonment and began service of his supervised term.

On August 11, 2010, the U.S. Pretrial Services Officer executed a Petition for Warrant for Offender Under Supervision. The petition asserted that Defendant violated the following mandatory conditions: (1) the defendant shall not commit another federal, state, or local crime; and (2) the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, as directed by the probation officer. The petition also alleged violations of the following standard conditions: (1) the defendant shall refrain from excessive use of alcohol and shall not

purchase, possess, use, distribute, or administer any controlled substance, or any paraphernalia related to any controlled substances, except as prescribed by a physician; and (2) the defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month. The petition also alleged violations of the following special condition: (1) the defendant shall participate in a program of testing and treatment for drug abuse, under the guidance and direction of the U.S. Probation Office, until such time as the defendant is released from the program by the probation officer.

The petition alleges that Defendant committed the following acts: (1) Defendant violated Texas Health and Safety Code § 481.333, Falsification of Drug Test Results, a Class B misdemeanor, in that on July 27, 2010, he reported to the U.S. Probation Office in Plano, Texas, and submitted a random urine specimen that tested positive for methamphetamine. The specimen was forwarded to Alere Lab which reported the results were positive for D-Methamphetamine, Dilute Specimen-Specific Gravity Substituted, Not Consistent with Normal Human Urine-Creatinine; (2) On December 7, 2009, Defendant submitted a urine specimen which tested positive for methamphetamine. Defendant signed a statement admitting to using methamphetamine on or about December 3, 2009. On July 27, 2010, Defendant submitted a urine specimen which tested positive for Methamphetamine; (3) Defendant failed to submit random urine specimens at McCary Counseling Services, Denton, Texas, on January 8, 2010, February 1, 2010, May 18, 21, and 26, 2010, June 30, 2010, and July 19, 2010. Defendant also failed to attend substance abuse counseling at McCary Counseling Services, Denton, Texas on January 29, 2010, March 17, 2010, May 25, 2010, and July 24, 2010. Defendant failed to submit a random urine specimen at the U.S. Probation Office on June 25, 2009; and (4) defendant submitted delinquent written monthly reports for the months of January 2007, October, November, and December 2008, January through December 2009, and

February and June 2010. Defendant failed to report in person to the U.S. Probation Office on November 23, 2009.

Prior to the Government putting on its case, Defendant entered a plea of true to all of the violations. The Court recommends that Defendant's supervised release be revoked.

### **RECOMMENDATION**

The Court recommends that the District Judge revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of four (4) months with no supervised release to follow. It is also recommended that Defendant be housed in the Bureau of Prisons, Seagoville Unit.

After the Court announced the recommended sentence, Defendant executed the consent to revocation of supervised release and waiver of right to be present and speak at sentencing. Defendant and the Government also waived their right to file objections.

**SIGNED this 27th day of September, 2010.**

  
AMOS L. MAZZANT  
UNITED STATES MAGISTRATE JUDGE